796 he had bathed it, then once more he placed the array [on the image] and took it in his arms. Loudly they played the flutes for him.

And after this they bore [the image] to Itepeyac and set it in place. And when they had come to set it down, thereupon they went away; all dispersed. Then ended the fasting and penances of [those who had] for the year [been] eaters of the god.[30]

in oconalti, niman ie no ceppa itlan aquj, quinapalos, cenca quitlapichilisia.

auh njman ie ic quivica in itepeiac vmpa contlalia, auh in iõc oconitlalito, njman ie ic momoiaoa, vivilos, ie vncan tzonquiça, in ineçacalix, in jotlamacenalix, in tetzquaque oc zivitl.

795 FOURTH PARAGRAPH, in which are related other burdensome works which those did who received the body of Uitzilopochtli.

Still another group at this time began to fast in the year that they were to eat the god. They proceeded in this manner each year; thus they all continued giving [way to others]. They all went on exchanging [places]; there was mutual taking over and trading [of functions]. And likewise for the priests of the tribal temples there was fasting for a year. Great also was their suffering.

Much from this did their affliction grow; great was their anguish, [which] filled their hearts and bodies. Verily, their misery surpassed [all else], since for one year there was to be fasting—since for a year they were to fast. [Each] man was to pass every night burning [wood] and providing light. Very much wood was consumed each night, as was the custom; and many broken up pine sticks, that torches might be lit. And they brought forth *chili*, tomatoes, salt, squash seeds, and water and food.

INJC NAVJ PARRAFVO vncan motemoa in oc centlamantli tequjtl vel etic, in quichioaia in ichcauhtin quicelilia in jnacaio Vitzilobuchtli.

Jc no centlamantin vncan cõpeoaltia, in moçaoa in jpan zivitl tzoquantzqe, çan juh otlatocatiuh, cecexiuhtica, çan jc nemamacotiuh, çan necacavililotiuh, nepapatlalotiuh, nepapatlalo: auh çan ie no ivj in calpoleque, no oc zivitl in moçaoa cenca no motolinia,

vel vmpa onquiça in nenolinilintli, vel tzonoca, vel chichichina yn jniollo, in jnnacaio, vel iniacapa quiquiça ic jnnenolinilia injc oc zivitl quitlaça moçaoa, injc mocexiuhcaoa, ioc tlacatl cricoal quitlaça in tlatlatia, in tlavia, cenca miec in polivi intlatlatil quavitl icrioal, yoan miec in ocotl tzomonqui, injc tlavilosia, yoi quinextiaia, chilli, tomatl, intatl, aiocuchtli, yoan atl, tlapalli.

785 423 And when they had nothing more with which to buy, they gave up their precious capes, that they might buy things, or else they sold their lands, which they had enclosed, or which lay in others' territory, or which somewhere they had lent. And they did even so with all lands—the tribal lands, the cultivated lands, marshy lands, the dry and dusty lands, or the cut-over, cultivated fields upon which they worked.

And if one who could not bring forth the tribute

auh in aoc tle itlaconia, itech quicuallaçaia in jtlmatzin, injc tlacoa, anoço quinamaca itlal, in quicoltzaca, anoço canah temac motlalia, canah netlacujlli quichioa: auh injc quichioaia ipampa tlalli in quezquich quichioa in calpollali, yoan in chinamitl, in chinchalalli, in tenchalli, anoço ximanilli ie in ipan tequjtia:

auh in aquja in amo conicoaia tequitl, ic quica-

30. The meaning of the term *tzipeltli* may be taken as either image or impersonator. The context of this passage, in both the Nahuatl and Spanish versions, suggests the impersonator bore the image to the Mint House, where the keeper of the god (*teotlac*) bathed the image; either he bathed also the impersonator, or the latter bathed himself. The impersonator then took up the image.

4: Sahagún M-5 (1529-1590) 1952 NU7 Aztec NU7

therefore pledged the land, they made him leave it; they made him abandon it.

And when their fasting came to an end, much did they make merry. They bathed with water; they washed [their heads] with *amolli* soap.[20] And fruit was eaten—they made fruit *tzonzalo*, and sauces. Or they slew and ate a dog, and they drank wine. Then they showed that verily they were through with [their tribute]; that their works had fallen behind them.

For no longer a burden upon their backs was their fasting. [It was] as if [now] they could move briskly and with security; now they awoke [from their sleep] with joy and peace; they awoke tranquil. They had no offerings to make. In peace they might make their livings and find the means by which they might subsist either by fishing or in the *maguey* fields; or perchance they might frequent the market places in one town or another. No more did they live in bondage.

Enough.

oalo in tlalli, ic quicaxoalhiaia, ic quicacoalhiaia:

785 [423]

auh in iquac in tzonquiçaia in jneçaoaliz, cenca papaqui, mahuiçoia, mahamoviaia, yoan motococoquiaia, quichioaia xoxotzmalli; yoan tlaxmilli, anoço ixcuintli quimjctiaia quiquaia, yoan tlaoaaia, ic quincuitiaia in ca oquimotlatlilique, inicampa ovetz, in jnterquiuh,

[262]

i ma iehqui tlamamalli in neçaoalitzli, in jehqui aquahuivetzqui, ie pacca, iecenca oaliça oalpaccaça aoc tle quimamana çan ivia in motlaoaltia in quitemoa in cuchcaiotl, in nenhcaiotl, anoço tlatlama, in anoço tlachiquj, in aço motitianquiz in ahoácan tepehoácan: aoc tle quijolitlacoxtiuh.

Je inquich.

20. See Pls. 3, 6.

[p. 10 is blank]

/p. 37/

Chapter 4

OWNERSHIP OF LAND

423 Let us analyze another of the aspects of the social organization of the Tenochcas, which might lead one to think that it did not have its origin in kinship: viz., ownership of land. In the sources we find that for the most part it was related to the existence of the calpullis.

In the Spanish sources of the beginning of the conquest three really very different criteria are always taken, almost interchangeably, to refer to the ownership of land: one is the working of it personally; another is the receiving of tribute from the one who works it, and another is the receipt of rent. This last is not going to be discussed at length here; but with reference to all these criteria we can shed a little light: we are told that the Indians in their plans indicated three types of land: those of the calpullis, yellow; flesh-colored for those of the lords; and a bright red for those of the king's household (1). The significance which these indications had is what is going

1. Torquemada, II, p. 546.

to occupy us principally.

Let us establish first of all that the lands of Tenochtitlan had been originally occupied only by members of the same Tenochca group; but that there appear to be indications of later immigrations from other regions, as from Xochimilco (2), although generally we lack

2. Vetancourt, III, p. 124; Torquemada, II, p. 60.

complete data in this respect. We can suppose, however, that in the event of there having been immigrations, these were isolated with consent of the group in general since we are told, without particularizing, [685] that whoever pulled up and took away the landmarks and boundaries of the villages was subject to the death penalty (3);

3. Román, I, p. 285.

in the case of Tenochtitlan, through being in a very special situation of isolation, it was very unlikely that an invasion could occur.

●423 We have seen already that the calpullis, since their establishment in Tenochtitlan, were concentrated and limited, and that the lands which they occupied about the time of the arrival of the Spanish, were the same which they had occupied since their /p. 38/ establishment in Tenochtitlan. This, although the original division was in part determined by the number of people present in each one of the calpullis, had certainly brought about that there was not an equal division at the time of the arrival of the Spanish. And in fact it is affirmed that not all the calpullis had the same number of people (4), which is quite understandable if the development of the calpullis

4. Zurita, p. 87.

had been more or less free. Certainly not having the same number of people, some calpullis had more land than others (5), and we even

5. Zurita, p. 87.

know of some that had "unoccupied land" (6) (fallow). This in the

6. Zurita, p. 88.

beginning may not have been of much importance, if the land was divided in accord with the people of each calpulli; but it indeed must have brought about great difficulties when some developed more than others. It appears, furthermore, that the land which the Tenochcas originally occupied was little by little increased by means of the chinampas (7), artificial land, although this is a method which

7. Clavigero, I, p. 379.

had many limitations. The result is at any rate that the lands of Tenochtitlan were divided by calpulli since their establishment in Tenochtitlan, and in spite of the differences in number of people or in amount of land, one calpulli could not take lands from another calpulli (8). This strongly suggests that the calpulli were closed

8. Torquemada, II, p. 545; Zurita, p. 88.

land-owning groups rather than simple wards.

423 Let us now see how the lands were distributed within the calpulli itself: the lands of the calpulli were occupied by the macehuales only in part and the rest they worked in order to pay their tribute (9).

9. Ixtlilxóchitl, II, p. 170.

We can complement this piece of information with another which was that all held land privately or in common in their calpulli (10).

10. Zurita, p. 104.

Thus it appears that the lands of the calpulli were divided first into land cultivated for tribute and land cultivated for the subsistence of the actual workers, and in the second place, it appears that these lands cultivated for the subsistence of the actual laborers were divided "individually" or "in common."

The lands divided "individually" were certainly the lands parcelled out and assigned to families which included brothers and nephews of the head of /p. 39/ the family (11). These parcels were

11. Gómara, II, p. 277; Cortés, 1538, p. 540.

inherited and could not be broken up (12) and the right to work them

12. Gómara, II, p. 277 and 309.

fell to the descendents of the same family (13) with the penalty of

13. Gómara II, p. 277.

death for whoever took or removed his land-marks and boundaries (14).

14. Laws Which the Indians Had /Leyes que tenían los indios/, p. 208; Ixtlilxóchitl I, p. 238; Torquemada, II, p. 386.

The lands were given in general to members of the calpulli itself (15) and there must have been differences in the size of the

15. Zurita, p. 25 and 27.

423 lots, at least according to the possibility of working them (16) and

16. Zurita, p. 88. Cortés gives us extreme measurements of lots of 100 to 2000 of "certain measurements" (1538, p. 542), and Clavigero gives us a measure of from 3 to 8 toesas, that is approximately 48 square meters.

yet there were people who did not have land in their calpulli (17),

17. Zurita, p. 89.

perhaps because they had left them unused for two years and had had them confiscated (18). The result was that, of the members of each

18. Zurita, p. 89.

calpulli, some had more land than others, and possibly everybody could work more than the plot they actually had; that is to say that there was a relative scarcity of arable land; but it appears that the families were not the owners of their lots.

We are told that some left their calpullis fleeing from excessive taxation of for other reasons (19) perhaps leaving the calpullis of

19. Cortés, 1538, p. 541.

many people and little land for calpullis with less people and land available to work. In this respect it is explained to us that whoever left their calpullis lost the rights to the lands assigned them in their calpulli (20).

20. Zurita, p. 88.

It was possible to rent the lands of one calpulli to the members of other calpullis for the public and common needs of the calpulli (21), possibly for a limited time, "for a year or two or more" (22)

21. Zurita, p. 88.

22. Zurita, p. 116.

423 and apparently not "for life," that is, the members of one calpulli did not really pass to another calpulli. (In part this does not happen either in the calpullis studied by Redfield in 1920 (23), thus suggest-

23. Redfield, 1920, p. 288.

ing that the calpulli was a property-holding group rather than a ward). In any case we must assert that in general the majority of the people must have had land in their calpullis and that possibly the leaving for other calpullis was an exception. (We could also think that among the Tenochcas the same happened as among the Maoris, where it was possible /p. 40/ for a person from one group to pass to another, in which he was adopted (24). Thus it appears that the

24. Goldenweisser, 1922, p. 382. Mishkin, N. 1937, p. 429.

calpulli was a true proprietary group, the use of the land being proof of its ownership. These were the lands pointed in yellow, their existence clearly recognized.

There was, besides the land given to the common macehuales of the calpulli of which we have just talked, a mode of distribution of the calpullis' lands which was of fundamental importance: the land 429 given to those courageous in battle [henceforth "valiants"]. These lands were given by favor for heroic deeds in war (25). But they

25. Torquemada, II, p. 545, 546; Vetancourt, I, p. 273.

were lands, and this is the fundamental thing, used for sustenance and where one could not have tenants (26); that is, they were lands

26. Torquemada, H. [sic. II] p. 545. Zurita (p. 116) tells us that the tenants pay rent "To the master of these," a statement which does not appear to refer to macehuales or even to the nobles, that is to say not contradicting the former affirmation of Torquemada.

which they worked and which yielded them fruits, but which did not

423 give them tribute as in the case of real lords (see page 27). Furthermore these lands were family parcels and not tlaxilacallis or calpullis since we are told that the members of the family inherited them and they reverted to the calpulli to which they were assigned in case there were no heir in order that the obligatory tribute be paid (27).

27. Torquemada, II, p. 546; Vetancourt, I, pp. 272, 372.

It has often been thought that these "valiants" were truly ennobled people and therefore tribute-receiving (28); but the data presented

28. Caso, Alfonso, 1946.

before, show that they were macehuales who did not pay tribute but who otherwise had lands which they worked personally like the other macehuales and unlike the lords. The problem is to find out whether they were on land of their own calpullis or onland of calpullis not their own. In the first case they would be forming a part of the general distribution of the land by calpullis; but they would differ as far as social position determined by the paying of tribute. In the second case—if the "valiants" were on lands of calpullis not their own—it is certain that they would be on land belonging to calpullis conquered in war, and thus, although they did indeed constitute a breach, we cannot suppose that it constituted a breach of importance in the distribution of the land by calpullis, since war had as a principal reason of being, the obtaining of tribute from the conquered, and they [the valiants] did not pay tribute. This surely limited the number of non-tributary "valiants." Thus we can affirm that this form of holding land was tied up in a certain degree to the existence of the calpullis and was not the fundamental one in Tenochtitlan.

/p. 41/ Let us go to another point: the pillalli. This term is translated as lands of the pillis, the lords of whom we have already spoken about. We have already seen that a portion of the lands of the calpulli was worked for tribute and another for the sustenance of the macehuales (see p. 38), and that the tribute given to the pillis was the working for them of a plot (see p. 24). Thus we are led to believe that the lands of the calpulli (calpullalli) had a portion for the sustenance of the actual pillis (pillalli) and that the rest was the land with which the macehuales sustained themselves. This would

423 be confirmed when we are told that except for the lands sold by lords to merchants, all were, or had been lands of the calpullis (29). The

29. "The lands which they possessed belonged to the town, were common, or belonged to the wards which they had parceled out, and some of the lords sold part of these lands to private individuals and those who bought them left them to their descendents. However, in the beginning they were lands of the villages which they call altepetlalli, or lands of the wards, which they called calpullalli" (Annunciation [Anunciación], p. 238).

possibility should be kept in mind, however, although it is almost impossible, that these lands were separated from the whole of the lands of their calpulli. They would be, in one or the other case, the flesh-colored lands, those of the lords.

Let us examine now the data on other lands, the so-called tecpantlalli; we find this term in the sources, which can be translated as lands of the tecpan. We have already seen that Tecpancaltitlan was one of the tlaxilacallis of Tenochtitlan (see p. 33) which leads us to believe that these lands belonged to this tlaxilacalli. 423 In the tecpantlalli lived the tecpanpouhque or tecpantlaca (30), 428

30. Torquemada, II, p. 546; Ixtlilxochitl, II, p. 170.

terms which can be respectively translated as "those counted in the tecpan" and "the people of the Tecpan," that is, a determined group of people. They were lands and peoples of the ruler (31), and

31. Torquemada, II, p. 546.

on the land there lived "people who were very esteemed and close to the house of the king, and whom the common esteemed more" (32). All this leads us to believe that these lands were of a group to

32. Torquemada, II, p. 546.

423 which "the king" (viz. the tlatoani) belonged. These lands "passed
428 from fathers to sons... and if anyone died or went off to other parts, his house and his land remained, and by order of the king or of the ruler, the others of the district put another in his place," and they could not sell them (33), and the tecpantlacas worked them personally

33. Torquemada, II, p. 546.

(34). These data indicate to us, first, that among them obtained

34. Ixtlilxóchitl, II, p. 170.

the same situation as obtained among the lands of the calpullis and tlaxilacallis: distribution in family parcels and inheritance of use, and that they had a certain unity with respect to a group which used them: its "faction" [="parcialidad"]. All this makes us think that the tecpantlalli were of a calpulli or of a tlaxilacalli, the calpulli or the tlaxilacalli to which the tlatoani belonged.

423 /p. 42/ We are not told only of the tecpantlalli, but also of the tecpillalli, which "were almost like what they called pillalli" (35).

35. Ixtlilxóchitl, II, p. 170.

Tecpillalli is translated as lands of the pilli or of the pillis of the tecpan, which explains to us what sort of lands they were that received this name: the lands destined for the sustenance of the pillis of the tecpan—the nobles of the calpulli of the tlatoani—, lands which possibly formed a unit with the others of the tecpan, perhaps inlike manner to the lands of other calpullis divided between macehuales and pillis.

There were lands and cultivated plots for the temples (36). These

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36. Román y Zamora, I, p. 120; Zurita, p. 176.

surely were of two types since on the one hand there was "a lot in each ward" (37), that is, they were certainly distributed by calpullis.

37. Ramírez Codex [Códice Ramírez], p. 79.

423 794 793 But on the other hand there were others which were not or appeared not to be in the same condition, since in these the priests functioned as mayordomos (38) and had tenants and neighbors who gave tribute

38. Clavigero, I, p. 281.

only to the temples (39). Perhaps this means that they were calpullis

39. Román, I, p. 120.

or tlaxilacallis whose lords were priests. Reinforcing this assertion is the fact that these people were differentiated from others and felt it to be an honor to be occupied in that employment (40), somewhat

40. Torquemada, II, p. 165.

similarly to what happened in the case of the tecpantlacas. What we can deduce from all the above, anyway, is that in order to speak of the lands of the Temples one takes as criterion the tribute and not the direct utilization of the land by the priests. Furthermore we can ascertain from our data that the calpulli was an organism basic to the existence of these lands in their particular distribution: each calpulli giving a part of its products, or entire calpullis dedicating themselves to giving tribute exclusively for the sustenance of the religious needs. In some cases these were towns removed from the city proper which were tributary to the temples and which alternated each half year (41). But we do not know what happened during the

41. Torquemada, II, p. 164.

half year when they did not give tribute to the temples. It may be that they continued with their calpulli organization and perhaps only gave tribute to their lords.

423 652 Something similar to that which occurred with the lands of the temples happened with the lands for war, or yaotlallis, which had various names according to the products which they yielded, cacalomilli, milchimalli (42) and which were "for /p. 43/ food

42. Vetancourt, I, p. 372.

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rations during periods of war" (43). In part they were lands distrib-

43. Torquemada, II, p. 546.

uted "in calpullis and wards according to the number of people there were in each district" (44), possibly of the city proper. These lands

44. Torquemada, II, p. 546.

were to be found also in conquered areas, since we are told that Moctezuma had in all the towns lands marked out which they sowed for him, as for the temples, and whose produce they brought to Tenochtitlan—if there was no garrison—or the garrison ate it, and if they did not sow, they fed them [the garrison] at any rate (45).

45. Oviedo, III, p. 537.

Thus they appear to be simply lands of the calpullis the tribute from which was destined for the sustenance of warriors and for the needs of war. There is however a reference which apparently contradicts the above, although it is possible that it only supplements it: we are told that these lands for war were on the boarder lines and belonged to no one, nor did anybody inherit them, they being occupied and kept up by the chief who was promoting the war (46). This

46. Anonymous. Relation [Relacion], 1554? p. 145.

appears to mean that the tribute from these lands was not inherited by a determined person but was given over to whoever was the war-chief. Indeed they were occupied by common laborers but their tribute was given to the chief of the armies for the needs of war. The reference to their being on the boarder lines may mean that they boardered on conquered land. The possibility that the characteristic of this type of land was that it was destined solely for tribute could be reinforced with the data of Ixtlilxóchitl where [one finds that] in the lands of conquered lords and subjects there were other kinds of land divisions which were called laotlalli (sic. Yaotlalli), which were gained through wars, and of these the greater part belonged to the three heads of the empire one of whom was

423 652 the war chief; and the rest was given and distributed to the lords and citizens who had aided with their persons and vassals in the conquest of such towns gained in war and this most of the time came to be a third of the conquered towns or provinces (47). According to the

47. Ixtlilxóchitl, II, p. 170.

above it appears that the criterion for characterizing this type of land ownership was the ownership of tribute since they were in reality lands of the calpullis like the rest.

423 We are told of another type of land: the tecuhtlalli (the lands of the tecuhtlis). To elucidate what this means we have three references: one, that on these lands the rulers and lords sheltered those who came fleeing from other towns and provinces (48); another, that

48. Annunciation [Anunciación], p. 238.

each Indian lord on his land /p. 44/.....

[Missing section of text. Translator].....

...when people came to it to settle from other parts and to those that were settled they gave land on which to sow, marked "that everyone might know the lands he is to sow, and most of them have their house on the inheritance which they consider their own" (49).

49. Oviedo, III, p. 535.

According to this all the lands which gave tribute to the tecuhtlis appear to be called tecuhtlalli but their organization may have been in calpullis if the arrived settlers remained together with those who were already settled. One has to think, this possibility notwithstanding, that population immigrations were not always of peoples forming calpullis nor that they organized themselves into calpullis upon becoming established. It could well be that part of these lands were those they called tlatocamilli, of which it is said they were 400 units in length and width, that they were leased, and that the rent was eaten and consumed in the house of the ruler (50), and they

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50. Ixtlilxóchitl, II, p. 170. We are also told that they were called itonal intlacatl which means something like "the sign of the birth of the people," that is, perhaps they were those of the ruler's lineage.

[The plots] were many and good, but they could not be disposed of, that is, sold (51). It is possible that the remainder of the tecuhtlallis

51. Zurita, p. 105.

were the lands of the calpullis which could be rented for the benefit of the calpulli (see p. 39). In any case we can accept that in part these lands appear to be lands of the calpullis the tribute from which was for the tecuhtli or tecuhtlis, and that in part the tlatocamílli indeed appear to have been lands possessed by a very limited group, worked by lessees, but by a group with very special and surely hereditary characteristics. Perhaps they were the lands "of the king's household," painted in flesh-color.

The forms studied up to now are communal, the produce of which is divided among those who work them and their chiefs, in different ways. We are finally going to consider a type of land ownership which is completely different from them because it appears to be private property.: We are told that some kinsmen of the rulers, [525] and some lords and merchants, had lands which they could gamble and sell (52). It would appear from this simple fact that there was

52. Oviedo, III, p. 535.

a true free commerce in land; but such was not the case. In the first place in what we have just set down we see that only some of the kinsmen of the rulers, some of the lords and some of the merchants possessed land in this way. If the lords were not at most more than ten percent of the population (see p. 24), the number of such owners must have been very small. In the second place, with respect to the merchants, we can say that if, as we have seen, they evinced a division between nobles and plebians (p. 25), the most likely thing is that the plebian merchants /p. 45/ could not be owners who disposed of their lands freely, as neither could the common macehuales nor even those ennobled through acts of valor (53).

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53. Torquemada, II, p. 545, 546. Vetancourt, I, p. 273.

This considerably limits the number of owners as well as the number of holdings of this type. Furthermore lands that were subject to any entailed estate could not be sold (54), which surely means that the

54. Torquemada, II, p. 545.

lands which could be sold were not the lands destined for the sustenance of governors of the Tenochca group, nor those destined for the sustenance of the chiefs of the calpullis, nor those set apart for the priests, or for the warriors, or for the hiers among the common members of the calpullis. Perhaps then it concerned parcels of conquered land given to valiant macehuales or to pillis but which were no longer occupied by the macehuales of calpullis, but possibly by the war dead. These plots must have been very few and certainly they did not form the base of society as it stood around the time of the arrival of the Spanish. The lands with occupants given to the valiant nobles were perhaps lands of the calpullis, as were those of the temples, etc., and really constituted only forms of ownership of tribute; on the other hand these, without occupants, indeed were lands with characteristics of private property, from which rent could be obtained if one were noble but not if one were an ennobled macehualy (55), (see p. 40). That is to say that although escaping in part from

55. Torquemada, II, p. 545, 546.

the concrete form of organization into calpullis, they remained within it by being the exclusive property of people whose rank was hereditary, the existence of these ranks being tied to the existence of the calpullis, as we have seen. It remains to find out what were the characteristics of the calpullis in order to decide beyond doubt what was the basis of this special form of the organization of land ownership.

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618

We have seen how the distribution of the land was made principally by calpullis which resemble property-owning groups. In this way it appears easy to see the role of the calpulli chiefs: the unity with personality was the calpulli, but the chief was one in authority

before the other calpulli members as before strangers, and the tribute which was rendered him perhaps was not so much as to a proprietor as to a functionary; although very possibly with the course of time there had come about a separation between the ideal role of chief and the real role, the chief taking advantage of his position to obtain a standard of living much superior to that of the macehuales of his own calpulli. This organization of the ownership of the land by calpullis appears to be the fundamental one, and the derived one that of the existence of lands whose tribute was destined for the sustenance of functionaries with very diverse social roles /p. 46/ (priests, warriors, etc.) who really do not seem to be proprietors of land but who have rights to tribute from the calpulli lands. Only the lands of the ennobled macehuales and those of the lords not subject to entailed estate escaped in part from this organization of property by calpullis. All this presents us with two possibilities: one is that the macehuales and the pillis held their lands in common (calpullalli) and that part of these was worked for the sustenance of the pillis, or of the priests or the noble warriors (pillalli). The other possibility is that the macehuales held their lands in common (calpullalli) and the pillis held theirs privately (pillalli, tecpillalli, tlatocamilli) but with certain restrictions of a social nature. In any case both groups, pillis and macehuales, would be owners of lands, and at any rate the lands would remain not subject to being entailed—those of certain tecuhtlis, lords, and merchants—as privately owned lands, but with so many restrictions regarding the persons who asked to possess them, that they did not remain as a principal structure, but secondary in importance. That there were other forms of ownership of the land does not upset the fundamental structure if they do not predominate: we could say that almost all the cultural phenomena obtained in all the communities; but that the important and basic ones are not the same in all the communities. The fundamental problem lies then somewhere else: the ownership of land being strongly determined by the existence of the calpullis, we have to find out what were the bases of the calpullis in order to decide whether these forms, which were the most widespread and important concerning ownership of land, were or were not determined by phenomena of kinship through common descent.

15:Bandelier E-4 (no date)1880 NU7 Aztec NU7

intervening ditch, and throwing it on the chinampa, by which means the ground is raised generally about a yard, and thus forms a small fertile garden, covered with the finest culinary vegetables, fruits and flowers . . . . . ."[37]

Each consanguine relationship thus gradually surrounded the surface on which it dwelt with a number of garden plots sufficient to the wants of its members.[38] The aggregate area thereof, including the abodes, formed the "*calpullalli*"—soil of the "calpulli,"[39] *and was held by it as a unit;* the *single tracts*, however, being tilled and used for the benefit of the *single families*.[40] The mode of tenure of land among the Mexicans at that period was therefore very simple. The tribe claimed its *territory*, "ALTEPETLALLI," an undefined expanse over which it *might extend*, —the "calpules," however, *held* and *possessed within that territory* such portions of it as were *productive;* each "calpulli" being *sovereign* within its limits, and assigning to its individual members *for their use* the minor tracts into which the soil was parcelled in consequence of their mode of cultivation. If, therefore, the terms "altepetlalli" and "calpulalli" are occasionally regarded as *identical*, it is because the former indicates the *occupancy*, the latter *the distribution* of the soil.[41] We thus recognize in the calpulli, or kindred group, the unit of tenure of whatever soil the Mexicans deemed worthy of definite possession. Further on we

[37] "Six Months Residence and Travels in Mexico," by W. Bullock. London, 1824. Cap. XIII, p. 179. It is not devoid of interest to compare the descriptions of this rather superficial, though still truthful observer, with the account of the ancient Chinampas as preserved to us in Tezozomoc (cap. III, p. 9). Durán (cap. VI, pp. 50 and 51). The floats or rafts mentioned by these old authors were nothing else but the chinampas or "floating gardens." Therefore also Tezozomoc uses the term "camellon," or garden-bed. (See also Acosta, Lib. VII, cap. IX, p. 473.) Torquemada (Lib. XIII, cap. XXXII, p. 485). Veytia (Lib. II, cap. XV, p. 143).

[38] Durán (Cap. V). Tezozomoc (Cap. III, p. 6). Acosta (Lib. VII, cap. IX, p. 473). Torquemada (Lib. III, cap. XXXIII, p. 291. Lib. II, cap. XV, p. 101). Clavigero (Lib. II, cap. XVII).

[39] Alonzo de Zurita (p. 51). Ixtlilxochitl ("Hist. des Chichim," cap. XXXV, p. 342). Torquemada (Lib. XIV, cap. VII, p. 545). Bustamante ("Tescoco en los ultimos Tiempos de sus antiguas Reyes," p. 232).

[40] Zurita ("Rapport, etc.," pp. 52, 56, 57, 60).—De l'Ordre de Succession observé par les Indiens, etc., etc. (copy of an anonymous MSS. from Simancas, contained in the Uguina collection, and translated by Mr. Ternaux-Compans in his "Recueil de pièces, etc., pp. 223 and 234.)

[41] Zurita ("Rapport, etc.," pp. 51-64). Herrera (Dec. III, Lib. IV, cap. XVII, p. 126). Ramirez de Fuenleal, Bishop of San Domingo (Letter of 3 Nov., 1532, Mexico, to the Emperor Charles V. "Recueil" of Ternaux, p. 253). See also the Introduction to the "Real Ejecutoria de S. M. sobre Tierras y Reservas de Pechos y Paga. Pertenecientes á los Caciques de Axapasco," in "Col. de Doc." of Icazbalceta (Vol. II, p. XIII).

15:Bandelier E-4 (no date)1880 NU7 Aztec NU7

however, was not changed, and no hereditary rights of property were called into existence in favor of the chiefs or their descendants.[1]

For nearly a century after the first settlement of the Mexicans

[1] No mention is made of any tax or tribute gathered for official purposes among the Mexicans until under the last Montezumas, when it is generally admitted, as Gomara says: "That all tributed to the chief of Mexico" ("Conq. de Méjico," p. 345, Vedia, I). Without accepting the views expressed by Robertson ("History of America," Book VII, p. 291. Vol. III. 9th Edition, 1800), who ascribes to the influence of Montezuma a change in the plan of government of the Mexican tribe,—it still appears but natural that as long as the tribe was weak in numbers and resources, the original or typical form of communal institutions prevailed, whereas with increased population and consequent increase of governmental labor the members of the tribe were compelled to provide for the maintenance of their officers and their families. The first step was to cultivate such patches of land for them as they held being members of some calpulli. These lands were the "pillali," commonly treated of as "patrimonial estates." Torquemada, however, says (Lib. XIV, cap. VII, p. 546): "Another kind of lands they called pillali, or, so to say: Lands of Knights ("hidalgos") or nobles. Of these there were two kinds. In the first case the land was inherited with the nobility, and in the other, the chief gave lands to such as had achieved distinction and valor in war, and were ennobled therefor. To these the chief gave lands for their sustenance, but they could not hold renters ("terrazgueros") but might sell to other chiefs, as if the conditional gift from the chief had not existed: and neither of these two classes could dispose of their tracts to any macehual (common man—perhaps from "maiti"—hand, and "cenalli"—shade,—the hand of some one who gives protection or shade), for in that case they lost them, and the chief entered in their possession. *and they were applied to the calpulli in whose area they were located, in order that the said cluster might pay tribute according to the quantity of land contained;*—also, if any one of them died without heirs, the chief inherited" Herrera (Dec. III, lib. IV, cap. XVII, p. 138). "These were lands which went with the Lordship, and which they called lands of the Lordship, and of these the Lords could not dispose, but rented them as they might and the *rents were used in the house of the King, because there, besides all the principals, also ate the travellers, and the paupers,* for which service the Kings were much honored and obeyed. What these rents did not furnish, was supplied by their patrimonial estates." Veytia (Lib. III, cap. VI, p. 193). "For the present we shall but say, that in each pueblo and place there was a tract of land of best quality, which was of the Kings or Lord of the estate . . . . . For the sowing and working of these lands the calpixque, an officer of the republic (state) in each pueblo, daily designated the common people who had to work them, and all the fruit belong integrally to the chief for *the maintenance of his house.*" Ixtlilxochitl (Hist. des Chichim. cap. XXXV, pp. 242, 243 and 244). Bustamante ("Tezcoco en los Ultimos Tiempos, etc." Part III. cap. V, p. 234, etc.). Oviedo ("Hist. gen. y nat." lib. XXXIII, cap. LI, p. 598, of 3d vol.) Now we have already established, that individual tenure of the soil was unknown, it is further proved that the offices were non-hereditary, we cannot fail, therefore, to recognize. 1°. In the "pillali" of Torquemada the original "chinampa" held by chiefs as members of a kinship.

2°. In the tracts of Herrera and Veytia "official lands," specially reserved for the grants of official houses and their occupants. These lands went "with the office."

No date can be assigned to the introduction of this new feature among the Mexicans but we cannot help being struck by the fact that the Texcucan chroniclers make special mention of it, connecting it with the time when Nezahualcoyotl became chief of Tezcoco (See Ixtlilxochitl "Hist. des Chichim." cap. XXXV. Veytia, Lib. III, cap. VI, p. 196. Bustamante, Part III, cap. V). The connection is *implied* rather than *expressed*, and but *excuses* the suggestion: that such a change might have occurred about the close of the fourteenth and beginning of the fifteenth centuries. Of course we allude here to the Mexicans alone, and not to the tribes of the mainland.

15:Bandelier E-4 (no date)1880 NU7 Aztec NU7

chief of the Mexican tribe, with power probably to delegate the same.[64]

Each of the three tribes elected its head war-chiefs according to its own customs; but the installation in office, *the investiture*, took place with the concurrence of the head-chiefs of the other tribes. This was especially the case in Mexico, where the "tlacatecuhtli" became commander-in-chief of the confederacy.[65]

Each tribe could carry on its own wars, defensive as well as offensive, independently; but if required, the others had to assist, in which case the Mexicans took the lead.[66]

Consequently, each tribe could have its *own conquests*, and levy its *own tribute* upon tribes which it had conquered *alone*.[67]

But wherever the *confederacy* had subjugated a foreign tribe, the spoils as well as all the subsequent tribute were divided among the three members as follows: Mexico and Tezcuco each two-fifths, and Tlacopan one-fifth.[68]

The establishment of this confederacy did not, in any manner whatever, alter the principles already recognized for the tenure and distribution of the soil. It only shows, and the subsequent career of the confederation further supports it, that these principles were common among the three tribes concerned. Wherever their conquests extended, the conquered were not annexed, but simply subjected to tribute, their territory and tribal autonomy were preserved, and no change introduced in the distribution of the soil beyond the reservation of tracts for the raising of tribute. Stewards, "calpixca," were the only representatives of the confederacy or of any of its members, residing permanently with the

[64] Zurita (p. 11). Herrera (Dec. III, lib. IV, cap. XV, p. 133).

[65] Mendieta (Lib. II. cap. XXXVII. p. 153). Torquemada (Lib. XI, cap. XXVI, p. 253). Duran (Cap. XXXII, p. 255; cap. XXIX, p. 303; cap. XLI. p. 325; cap. LII, p. 409). Tezozomoc (Cap. XLI, p. 87; cap. LVI, p. 91; caps. LX and LXI, p. 100; cap. LXXXII, pp. 143 and 144). Ixtlilxochitl ("Hist. des Chichim.," Cap. I, pp. 2 and 3; cap. LX, p. 49; cap. LXX, p. 102). See also Veytia,—but especially Clavigero, who is very positive (Lib. IV. cap. III. "Besides, the two Kings (of Tezcuco and Tacuba), were honorary assistants to the election of the Mexican Kings. They had but to sanction the election . . . .")

[66] Zurita (p. 67). Herrera (Dec. III, lib. IV, cap. XV, p. 133). Torquemada (Lib. XIV, cap. VIII, pp. 546 and 547).

[67] Herrera (Dec. III, lib. IV, cap. XV, p. 133).

[68] Torquemada (Lib. II. cap. LVII. p. 179; cap. XXXIX. p. 144; lib. XIV, cap. VIII, pp. 546, 547 and 549). Zurita ("Rapport," p. 12). Ixtlilxochitl (Cap. XXXII, pp. 219 and 220). Veytia (Lib. III, cap. III, pp. 164 and 165). Bustamante ("Tezcoco, etc.," Parte II, cap. III, pp. 165 and 165). Clavigero (Lib. IV, cap. III).

15:Bandelier E-4 (no date)1880 NU7 Aztec NU7

423 tributaries.[69] In short, the same treatment to which the Tecpanecas had once submitted, at the hands of the Mexicans *alone*, was the one received by foreign tribes from the confederacy, from the time of its formation down to its overthrow by the Spaniards. All the conquests intervening did not therefore result in the formation of a *state* based upon feudal notions of territorial domain and vassalage, but simply in a conglomerate of scattered tribes often mutually inimical, who looked with terror to the valley of Mexico as the abode of their conquerors. Over these conquerors the Mexicans held military direction, and the name of Mexico, or its equivalent of "Culhua," was best known. As early as 1518, Juan de Grijalva heard it on the coast of Tabasco.[70] This wide diffusion of the *name*, coupled with the still more extensive spread of the language,[71] and the undisguised dread of the natives before that very name, has created in the minds of Europeans the picture of a Mexican nation, state, and feudal Empire; whereas there was nothing else but the military confederacy of the three leading Nahuatl tribes of the valley of Mexico.[72]

423 This rapid sketch of the history of the Mexicans, up to the time when they confederated with the tribes of Tezcuco and Tlacopan, has shown to us that in no case was the notion of public domain, of governmental lands, current among the tribes of Mexico. The tribe held no domain,—conquest of another tribe by it did not (as feudal conditions would imply) convert the conquered territory into an annex or dependency of the conqueror, as far as the possession of the soil was concerned. Finally, the confederacy itself, as such, did not even hold a territory of its own, still less did it claim possession of areas occupied by tributary tribes.

It remains now for us to revert again to the distribution of the

[69] Zurita ("Rapport, etc.," p. 67). "This kind of tribute or allegiance ("homagelige") was paid to officers established by the sovereigns of Mexico, of Tezcuco, or of Tacuba, etc., etc. . . . . The chief remaining sovereign, as before the wars, retained the civil and criminal jurisdiction over all their dominions" (Id. p. 96). Andrés de Tapia ("Relacion, etc." Col. de Documentos," vol. II, p. 579). "Art of War" (p. 100, note 1?). Torquemada (Lib. XIV, cap. VIII, p. 847). Veytia (Lib. III, cap. VI, p. 197).

[70] "Itinerario de l'Armata del Re Catholico in India Verso la Isola de Inchathan del Anno M.D. XVIII," in Col. de Docum, vol. I, p. 288, taken from Ramusio. Originally published (1522), in the "Itinerario de Varthema," an exceedingly rare book. Bernal-Diez ("Hist. verdadera." Vedia II, cap. XI, p. 10).

[71] Orozco y Berra ("Geografia de las Lenguas, etc.," Parte II, p. 83, and the splendid ethnographical chart).

[72] Zurita ("Rapport, etc.," p. 11. "The province of Mexico was subject to three principal chiefs, etc. etc. . . ."

15:Bandelier E-4 (no date)1880 NU7 Aztec NU7

soil, and to establish its customs at the time when the Europeans first trod the Mexican shore.

We readily distinguish several classes of lands, bearing each a different name, besides the "altepetlalli," or tribal territory or range. The latter was the widest circumscription for which the Nahuatl language had a term. (The word "Anahuac," which is often used, is utterly inapplicable, as we have elsewhere shown).[73] No other idea of tenure was connected with it, beyond that of *tribal occupation*.

Each of the numerous tribal areas, overrun by the confederacy (provided the natives were of a sedentary character), contained what we have ventured to call tribute-lots. The name given to these tracts was possibly "yaotlalli," but rather "milchimalli" ("lands of war," and "shield-lands").[74] As before said, the soil of these tracts was still held in original tenure by the kinships composing the conquered tribe, but the *crops* went towards the tribute. There is no indication about the size of these areas, and they were the only ones directly connected with the conquerors.

Of those tracts whose products were exclusively applied to the governmental needs of the pueblo or tribe itself (taken as an independent unit) there were, as we have already seen, two particular classes:

The first was the "tecpan-tlalli:"—land of the house of the community, whose crops were applied to the sustenance of such as employed themselves in the construction, ornamentation, and repairs of the public house. Of these there were sometimes several within the tribal area. They were tilled in common by special families who resided on them, using the crops in compensation for the work they performed on the official buildings.[75]

[73] Brasseur de Bourbourg ("Ruines de Palenqué," Cap. II, p. 22, and note 10) makes the very sensible remark that the name "Anahuac" did not at all apply to a "state" or "empire," etc., but in general to all countries situated in the neighbourhood of considerable bodies of water,—such as lakes or large streams; or the shores of the sea.

[74] MSS. from Simancas "De l'ordre de succession observe par les Indiens relativement à leurs Terres et de leurs Territ—es communaux," translated by Mr. Ternaux-Compans in "Recueil de Pièces," etc., pp. 223 and 224. Torquemada (Lib. XIV, cap. VII, p. 546). Clavigero (Lib. VII, cap. XIV. He includes them positively in the soil of the kinships, and treats them as communal lands, the product of which furnished military supplies). "Yaotlalli" is improper (see "Art of War," p. 135, note 136), but "Milchimalli" is possible.

[75] From "tecpan," chief-house (Molina, Parte II, p. 95), and "tlalli," soil (Id. p. 124). Torquemada (Lib. XIV, cap. VII, p. 546). "There was another class of lands which belonged to the chief's income; and those who dwelt on them and cultivated them were

15:Bandelier E-4 (no date)1880 NU7 Aztec NU7

651 The second class was called "tlatoca-tlalli"—land of the speak-
423 ers. Of these there was but one tract in each tribe, which was to be "four-hundred of their measures long on each side, each measure being equal to three Castilian rods."[76] The crops raised on such went exclusively to the requirements of the household at the "tecpan," comprising the head-chief and his family with the assistants.[77] The tract was worked in turn by the other members

called Tecpanpouhqui, or Tecpantlaca, which signifies: people of the palace and renters of the King. Such were held to keep in repair the royal palaces, clean the gardens, and to attend to the cleanliness and to the necessities of the royal palaces. They were regarded with much respect, as people most directly connected with the houses of the King. When the Lord sallied forth, they accompanied him, and they paid no other tribute but bouquets (Ramilletes," flower-bunches) and birds of all kind, which they offered to the King. Such lands descended from father to son, but they could not sell them, nor dispose of them in any way, and if one of them died without heirs, or left the place, his house and lands remained for those of his kin ("parcialidad") to put another in his place, according to the commands of the King, or of the Lord."—Herrera (Dec. III, lib. cap. XV, p. 125).—Veytia (Lib. III, cap. VI, p. 196). "Besides these each pueblo also had other kinds of lands called tecpantlalli, or lands of the palace or rentals of the chief, because its crops also went integrally towards the constructions and repairs of the palaces of the Kings, and towards other expenses aside from the sustenance. The people who cultivated them were also plebeians, but they were set apart for it in each place, and were called tecpanpuhque or tecpantlaca, that is, people pertaining to the palaces, and they could not work any other lands." Ixtlilxochitl ("Hist. des Chichimèques cap. XXXV, p. 243. "There were others known by the name of Tecpantlali, or lands which depend from the palaces of the Lords. The Indians tilling them were called tecpanpouhque, or people connected with the palaces of the Lords"). Bustamante ("Tezcoco," etc., Parte III, cap. V, pp. 233 and 234). Clavigero (Lib. VII, cap. XIV). "The ownership of the crownlands, called Tecpantlalli, remained in the King, but certain gentlemen called Tecpanpouhque or Tecpantlaca, *i.e.* people of the palace, had the enjoyment thereof. These paid no tribute but flowers and certain birds which they offered to the King in token of allegiance. But they were obligated to keep the royal palace in repair, or to construct new ones if needed; to tend to the royal gardens, and to care for the vassals in their district. It was their duty to attend court, to escort the King, if he appeared in public; and thus they were highly considered. If one of them died, his son succeeded in all his duties, but he lost his rights by removing from the place, in which case the King gave him the use of another tract, or left it to the community, in whose area the land lay, to assign to him another piece."

The above quotations show conclusively that the soil of the "tecpantlalli" was held and vested in the King, and only the crops went to certain official purposes. The occupants thereof were not serfs, since it is implied that they might remove at their pleasure, but, as any other members of a calpulli, in accordance with what we shall hereafter show, they lost by removal their right of use to that particular tract. They were properly the "official artisans."

[804] " Ixtlilxochitl (Hist. des Chichim," cap. XXXV, p. 242). Vedia (Lib. III, cap. VI, p. 195): "This had to be four-hundred of their measures in square ('encuadro,' each side long); each one of these being equal to three castilian rods. . . ." See "Art of War" (p. 944, note 185). "The rod" (vara) is equal to 2.7880 feet English (Guyot).

[77] From "tlatoca" speakers, or "tlatooni" speaker, and "tlalli." Simancas M. S. S. on the customs of succession ("Recueil de Pièces, etc." p. 223). Herrera (Dec. III, lib. IV, cap. XVII, p. 130). "There were other kinds of lands that were attached to the lordship (office), which they called of the lordship, and of these the Lords could not dispose, and rented them to whom they pleased, drawing much rent from them,

[Erratum, should be "Kin". See 16:Bandelier, cat. 116, p. 663, note 216.—Analyst]

15:Bandelier E-4 (no date)1880 NU7 Aztec NU7

of the tribe, and it remained always public ground, reserved for the same purposes.[78]

Both of these kinds were often comprised in one, and it is even not improbable that the first one may have been but a variety of the general tribute-lands devoted to the benefit of the conquering confederates. Still, the evidence on this point is too indefinite to warrant such an assumption.

While the crops raised on the "tecpan-tlalli," as well as on the "tlatoca-tlalli," were consumed exclusively by the official houses and households of the tribe, the soil itself which produced these crops was neither claimed nor possessed by the chiefs themselves, or their descendants. It was simply, as far as its products were concerned, official soil.[79]

The establishing and maintaining of these areal subdivisions was very simple with the tribes of the mainland, since they all possessed ample territories for their wants and for the requirements of their organizations. *Their* soil formed a contiguous unit. It was not so, however, with the Mexicans proper. With all their industry in adding artificial sod to the patch on which

spending it in the house of the King.") Ixtlilxochitl (Ibid. cap. XXXV, p. 242. "In the best location of the territory there was set off a field, which held exactly four hundred measures in length and breadth. This was called Tlatocatlali or Tlatocamilli that is: land or plantation of the Lord, and also Itonal Yutlacal, or lands on which the inhabitants are compelled to work.") Oviedo (Lib. XXXIII, cap. II, p. 537). Veytia, (Lib. III, cap. VI, p. 135, confirms Ixtlilxochitl almost verbally, adding: "For the sowing and cultivation of these the calpixque, which was an officer of the community in each pueblo, daily designated those who had to attend to it, out of the plebeians and tributaries, and all the crops went to the Lord for the maintenance of his house ('casa' family)." Zurita does not use the term which we have adopted, because he is chiefly struck by the communal tenure, as exhibited in the "calpulalli." The fact of their being communal land, though set off for a special purpose, and *not owned* by the chiefs, is plain.

[78] Veytia (Lib. III, cap. VI, p. 136). It is superfluous to revert to the erroneous impression, that the chiefs might dispose of it.

[79] "Patrimonial Estates" are mentioned frequently, but the point is, where are they to be found. Neither the "tecpantlalli" nor the "tlatoca-tlalli," still less the "calpulalli," show any trace of individual ownership. "Eredad" (heirloom) is called indiscriminately "milli" and "cuemiti" (Molina Parte Ia. p. 57). The latter is also rendered as "tierra labrada, ó camellon" (Molina. Parte IIa. p. 26). It thus reminds us of the "chinamitl" or garden-bed (as the name "camellon" also implies), and reduces it to the proportion of an ordinary cultivated lot among the others contained within the area of the calpulli. It is also called "tlalli," but that is the general name for soil or ground. "Tierras o eredades de particulares, juntas en alguna vega," is called "tlalmilli." This decomposes into "tlalli" soil, and "milli." But "vega" signifies a fertile tract or field, and thus we have again the conception of communal lands, divided into lots improved by particular families, as the idea of communal tenure necessarily implies.

15:Bandelier E-4 (no date)1880 NU7 Aztec NU7

423 311 they had originally settled, the solid surface was eventually much too small for their numbers, and they themselves put an efficient stop to further growth thereof by converting, as we have seen elsewhere, for the purpose of defence, their marshy surroundings into water-sheets, through the construction of extensive causeways.[80] While the remnants of the original "tecpantlalli" and of the "tlatocatlalli" still remained visible in the gardens, represented to us as purely ornamental, which dotted the pueblo of Mexico,[81] the substantial elements wherewith to fulfil a purpose for which they were no longer adequate had, in course of time, to be drawn from the mainland. But it was not feasible, from the nature of tribal condition, to extend thither by colonization. The soil was held there by other tribes, whom the Mexicans might well overpower and render tributary, but whom they could not incorporate, since the kinships composing these tribes could not be fused with their own. Outposts, however, were established on the shores, at the outlets of the dykes, at Tepeyacac on the north, at Iztapalapan, Mexicaltzinco, and at Huitzilopochco to the south, but these were only military positions, and beyond them the territory proper of the Mexicans never extended.[82] *Tribute*, therefore, had to furnish the 651 means for sustaining their governmental requirements in the matter 423 of food, and the *tribute lands* had to be distributed and divided, so as to correspond minutely to the details of their home organization. For this reason we see, after the overthrow of the Tecpanecas, lands assigned apparently to the head war-chiefs, to the military chiefs of the quarters, "from which to derive some revenue, for their maintenance and that of their children."[83] These

[80] "Art of War" (pp. 150 and 151). L. H. Morgan ("Ancient Society," Part II, cap. VII. pp. 180 and 191).

[81] Humboldt ("Essai politique sur la Nouvelle Espagne," vol. II, lib. III, cap. VIII, p. 50). [351] Nearly all the old authors describe the public buildings as surrounded by pleasure-grounds, or ornamental gardens. It is very striking that, the pueblo having been founded in 1325, and nearly a century having been spent in adding sufficient artificial soil to the originally small solid expanse settled,—the Mexicans could have been ready so soon, to establish purely decorative parks within an area, every inch of which was valuable to them for subsistence alone!

[82] The Mexican tribe proper clustered exclusively within the pueblo of Tenochtitlan. The settlements at Iztapalapan, Huitzilopochco and Mexicaltzinco were but military stations—outworks, guarding the issues of the causeways to the South. Tepeyacac (Guadalupe Hidalgo) was a similar position,—unimportant as to population.—In the [312] North. Chapultepec was a sacred spot, not inhabited by any number of people, and [764] only held by the Mexicans for burial purposes, and on account of the springs furnishing fresh water to their pueblo.

[83] Tezozomoc (Cap. XV, p. 91). See note 57.

15:Bandelier E-4 (no date)1880 NU7 Aztec NU7

tracts were but "official tracts," and they were apart from those reserved for the special use of the kinships. The latter may have furnished that *general* tribute which, although given nominally to the head war-chief still was, "for all the Mexicans in common."[84]

The various classes of lands which we have mentioned were, as far as their tenure is concerned, included in the "calpulalli" or lands of the kinships. Since the kin, or "calpulli," was the unit of governmental organization, it also was the unit of *landed tenure*. Clavigero says: "The lands called altepetlalli, that is: those who belonged to the communities of the towns and villages, were divided into as many parts as there were quarters in a town, and each quarter held its own for itself, and without the least connection with the rest. Such lands could in no manner be alienated."[85] These "quarters" were the "Calpulli," hence it follows *that the consanguine groups* held the "altepetlalli" or *Soil of the tribe*.[86]

We have, therefore, in Mexico, the identical mode of tenure of lands, which Polo de Ondegardo had noted in Peru and reported to the king of Spain as follows: ". . . . . although the crops and other produce of these lands were devoted to the tribute, the land itself belonged to the people themselves. Hence a thing will be apparent which has not hitherto been properly understood. When any one wants land, it is considered sufficient if it can be shown that it belonged to the Inca or to the sun. But in this the Indians are treated with great injustice. For in those days they paid the tribute, and *the land was theirs*. . . . . ."[87]

The expanse held and occupied by the calpulli, and therefore called calpulalli," was possessed by the kin in *joint* tenure.[88]

[84] "Tezozomoc (Cap. X. p. 16). Zurita ("Rapport, etc.," p. 227). Herrera (Dec. III, lib. IV, cap. XVII. p. 138. "I no era en mano del Señor disponer de estos Tributos á su voluntad, porque se alteraba la Gente, i los Principales." This refers specially to the tribute by quarters "barrios.";

[85] Storia del Messico" (Lib. VII, cap. XIV).

[86] Ixtlilxochitl ("Histoire des Chichim.," Cap. XXXV, p. 242). Torquemada (Lib. XIV, cap. VII, p. 545).

[87] "Narratives of the Rites and Laws of the Yncas, translated from the original Spanish manuscripts, and edited by Clement R. Markham." Publication of the "Hackluyt Society," 1873. "Report of Polo de Ondegardo" who was "Regidor" of Cuzco, in 1560; and a very important authority (See Prescott, "History of the Conquest of Peru," note to Book I, cap. V). Confirmed by Garcia ("El Origen de los Indios," Lib. IV, cap. XVI, p. 102).

[88] Zurita ("Rapport, etc., etc., p. 30). "The chiefs of the second class are yet called Calpullec in the singular and Chinancalleo in the plural. (This is evidently incorrect, since the words "Calpulli" and "Chinancalli" can easily be distinguished from each other. "Chinancalli," however, after Molina means "cercado de seto" (Parte IIa, p.

15:Bandelier E-4 (no date)1880 NU7 Aztec NU7

618 It.
423 could neither be alienated nor sold; in fact, there is no trace of
[425] barter or sale of land, previous to the conquest.[89] If, however, any calpulli weakened, through loss of numbers from any cause whatever, it might farm out its area to another similar group, deriving subsistence from the rent.[90] If the kinship died out, and its lands therefore became vacant, then they were either added to those of another whose share was not adequate for its wants, or they were distributed among all the remaining calpulli.[91] The calpulli was

21), or an enclosed area, and if we connect it with the old original "chinamitl" we are forcibly carried back to the early times, when the Mexicans but dwelt on a few flakes of more or less solid ground. This is an additional evidence in favor of the views we have taken, of the growth of landed tenure among the Mexican tribe. We must never forget, that the term is "Nahuatl" and as such recognized by all the other tribes, outside of the Mexicans proper. The interpretation as "family" in the QQuiché tongue of Guatemala, which we have already mentioned, turns up here as of further importance). th. is chiefs of an old race or family, from the word Calpulli or Chinancalli, which is the same, and signifies a quarter (barrio), inhabited by a family known, or of old origin, which possesses since long time, a territory whose limits are known, and whose members are of the same lineage." "The calpullis, families or quarters, are very common in each province. Among the lands which were given to the chiefs of the second class, there were also calpullis. These lands are the property of the people in general ("de la masse du peuple") from the time the Indians reached this land. Each family or tribe received a portion of the soil for perpetual enjoyment. They also had the name of calpulli, and until now this property has been respected. They do not belong to each inhabitant of the village in particular, but to the calpulli, which possesses them in common." Don Ramirez de Fuenleal, letter dated Mexico, 3 Nov. 1532 ("Recueil de pièces, etc., Ternaux-Compans, p. 253). "There are very few people in the villages which have lands of their own . . . . the lands are held in common and cultivated in common." Herrera (Dec. III. lib. IV, cap. XV, p. 135) confirms, in a condensed form, the statements of Zurita: "and they are not private lands of each one, but held in common." Torquemada (Lib. XIV, cap. VII, p. 545). Veytia (Lib. III, cap. VI, p. 196). "Finally there were other tracts of lands in each tribe, called calpulalli, which is, land of the calpules (barrios), which also were worked in common." Oviedo (Lib. XXXII, cap. LI, pp. 536 and 537). Clavigero (Lib. VII, cap. XIV). Bustamante ("Tezcoco, etc.," Parte IIIa. cap. V, p. 232).

[89] Zurita (p. 32). "He who obtained them from the sovereign has not the right to dispose of them." Herrera (Dec. III, lib. IV, cap. XV, p. 135). "he who possessed them, could not alienate them, although he enjoyed their use for his lifetime." Torquemada (Lib. XIV, cap. VII, p. 543). Disputes about lands are frequently mentioned but they refer to the enjoyment and possession, and not the transfer of the land. Baron Humboldt ("Vues des Cordillères et monuments indigènes des peuples de l' Amérique," Vol. I, Tab. V), reproduces a Mexican painting representing a litigation about land. But this painting was made subsequent to the conquest, as the fact that the parties contending are Indians and Spaniards sufficiently asserts. Occasional mention is made that certain lands "could be sold." All such tracts, however, like the "pillali" have been shown by us to be held in communal tenure of the soil, their *enjoyment* alone being given to individuals and their families.

[90] Zurita (p. 32). "In case of need it was permitted to farm out the lands of a calpulli to the inhabitants of another quarter." Herrera (Dec. III, Lib. IV, cap. XV, p. 134). "They could be rented out to another lineage."

[91] Zurita (p. 32). "When a family dies out, its lands revert to the calpulli, and the chief distributes them among such members of the quarter as are most in need of it."

15:Bandelier E-4 (no date)1880 NU7 Aztec NU7

a democratic organization. Its business lay in the hands of elective chiefs:—"old men," promoted to that dignity, as we intend to prove in a subsequent paper, for their merits and experience, and after severe religious ordeals. These chiefs formed the council of the kin or quarter, but their authority was not absolute since on all important occasions a general meeting of the kindred was convened.[92] The council in turn selected an executive, the "calpullec" or "chinancallec" who, in war, officiated as "achcacauhtin" or "teachcauhtin" (elder brother).[93]—This office was for life or during good behavior.[94] It was one of his duties to keep a reckoning of the soil of the calpulli, or "calpulalli," together with a record of its members, and of the areas assigned to each family,—and to note also whatever changes occurred in their distribution.[95] Such changes, if unimportant, might be made by him;

[92] Zurita (pp. 60, 61, 62). Ramirez de Fuenleal ("Letter, etc." Ternaux-Compans, p. 249).

[93] Zurita (p. 60). "The calpulli have a chief taken necessarily from among the tribe, he must be one of the principal inhabitants, an able man who can assist and defend the people. The election takes place among them. . . . The office of this chief is not hereditary; when any one dies, they elect in his place the most respected old man. . . . If the deceased has left a son who is able the choice falls upon him, and a relative of the former incumbent is always preferred" (Id. pp. 50 and 223). Simancas M. S. S. ("De l'ordre de succession, etc.;" "Recueil," p. 225). "As to the mode of regulating the jurisdiction and election of the alcaldes and regidors of the villages, they nominated men of note who had the title of achcacaulitin. . . . . There were no other elections of officers . . ." "Art of War, etc." (pp. 119 and 120).

[94] Zurita (pp. 60 and 61). Herrera (Dec. III, Lib. IV, cap. XV, cap. 125). "I le elegian entre si y tenian por mejor."

[95] Zurita (pp. 61 and 62). "This chief has charge of the lands of the calpulli. It is his duty to defend their possession. He keeps paintings showing the tracts, the names of their holders, the situation, the limits, the number of men tilling them, the wealth of private individuals, the designations of such as are vacant, of others that belong to the Spaniards, the date of donation, to whom and by whom they were given. These paintings he constantly renews, according to the changes occurring, and in this they are very skilful." It is singular that Motolinia, in his "Epistola proémial" ("Col. de Doc." Icazbalceta, Vol. I, p. 5), among the five "books of paintings" which he says the Mexicans had, makes no mention of the above. Neither does he notice it in his letter dated Cholula 27 Aug., 1554 ("Recueil de pièces, etc." Ternaux-Compans). Sahagun (Lib. VIII, cap. XV, p. 304) says, "porque primeramente demandaban la pintura en que estaban escritas ó pintadas las cosas, como haziendas, casas, ó maizales" (Id. cap. XXV, p. 314). This tends to prove the existence of such paintings. Mendieta (Lib. II, cap. XXVII, p. 125). Torquemada (Lib. XIV, cap. VIII, p. 548), "and in order to prevent any confusion in these lands they painted them on long stripe ("lienzos") in the following manner. The lands of the calpules light yellow, those of the principals feathered, and the lands of the Kings income of a fiery red color,—so that, on opening one of these rolls, the entire pueblo, its limits and outlines could be seen at a glance." This is another confirmation of our views about the distribution of the soil, and the fact that the two latter classes had but different shades of red, is somewhat significant. See Clavigero (Lib. VII, cap. XIV), who confirms. The explanation of Zurita covers the whole ground, however, and explains both of the last statements.

15:Bandelier E-4 (no date)1880 NU7 Aztec NU7

618 Such changes, if unimportant, might be made by him;
423 more important ones, or contested cases, had to be referred to the
[427] council of the kinship, which in turn often appealed to a gathering of the entire quarter.[96]

The "calpulalli" was divided into lots or arable beds, "tlalmilli."[97] These were assigned each to one of the married males of the kinship, to be worked by him for his use and that of his family. If one of these lots remained unimproved for the term of two consecutive years, it fell back to the quarter for redistribution. The same occurred if the family enjoying its possession removed from the calpulli. But it does not appear that the cultivation had always to be performed by the holders of the tract themselves. The fact of improvement under the *name* of a certain tenant was only required, to insure this tenant's rights.[98]

622 Therefore the chiefs and their families, although they could not,
618 from the nature of their duties, till the land themselves, still could
423 remain entitled to their share of "tlalmilpa," as members of the calpulli. Such tracts were cultivated by others for their use. They were called by the specific name of "pillali" (lands of the chiefs or of the children, from "piltontli" boy, or "piltzintli,"

[96] Zurita ("Rapport, etc.," pp. 56 and 62). We quote him in preference, since no other author, known to us, has been so detailed.

[97] "tlalmilli" = tierras, ó heredades de particulares, que estan juntas en alguna vega" (Molina, Part IIa, p. 134).

[98] Each family, represented by its male head, obtained a certain tract or lot for cultivation and use, Zurita (p. 55). "The party (member of the calpulli, because no member of another one, had the right to settle within the area of it. See Id. p. 53), who has no lands, applies to the chief of the calpulli who, upon the advice of the other old men, assigns to him such as correspond to his ability and wants. These lands go to his heirs . . . . . ." Id. (p. 56.) "The proprietor who did not cultivate during two years, either through his own fault or through negligence, without just cause . . . . . he was called upon to improve them, and if he failed to do so, they were given to another the following year." Bustamante ("Tezcoco, etc.," Parte IIIa. p. 190, cap. I). The fact, that any holder of a "tlalmilli" might *rent* out his share, if he himself was occupied in a line precluding him from actual work on it, results from the lands of the "calpulli" being represented alternately treated as communal, and again as private lands. Besides, it is said of the traders who, from the nature of their occupation, were mostly absent, that they were also members and participants of a "calpulli" (Zurita, p. 223. Sahagun Lib. VIII, cap. III. p. 349). Now, as every Mexican belonged to a kinship, which held lands after the plan exposed above, it follows that such as were not able to work themselves, on account of their performing other duties subservient to the interests of the community, still preserved their tracts by having others to work them for their benefit. It was not the right of tenancy which authorizes the improvement, but the fact of improvement for a certain purpose and benefit, which secured the possession or tenancy.

15:Bandelier E-4 (no date)1880 NU7 Aztec NU7

622
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child),[99] and those who cultivated them carried the appellation of 423
"tlalmaitl"—hands of the soil.[100]

The "tlalmilpa," whether held by chiefs or by ordinary members 423
of the kin ("macehuales") were, therefore, the only tracts of land possessed for use by individuals in ancient Mexico. They were so far distinguished from the "tecpantlalli" and "tlatocatlalli" in their mode of tenure as, whereas the latter two were dependent

[99] It is just the "pillali" which oppose the greatest difficulties to this investigation, and to a clear conception of the mode of tenure of lands in ancient Mexico. They are generally represented (whenever mentioned), as private domains of the chiefs. Torquemada (Lib. XIV, pp. 545 and 546), distinguishes two kinds of "pillali." The first one he says might be sold,—but he places the restriction upon them, that such as held lands through conquest ("sujecion") or through gift ("merced") of the chief, had to go to the descendants, as majorat; and if they died without heirs, the King, or Lord became such, and they were incorporated into his royal Estates." The other kind was not transmissible at all. Clavigero (Lib. XVII, cap. XIV). We notice here a confusion between official tracts and such lots of the "calpulli" as pertained to the chief's family in consequence of their membership of the Kin. Also between "tribute-lots" and the official tracts, of conquered tribes. Torquemada acknowledges, that the "pillali," upon the death of the family, were incorporated in the calpulli to which that family belonged, "in order that they might pay tribute." This ought to define their true position and nature. [428]

[100] From "tlalli" soil, and "maitl" hand. Hands of the soil. Molina (Parte IIa, p. 427
124), has: "tlalmaitl"—"labrador, ò gañan." This name is given in distinction of the "macehuales" or people working the soil in general. The tlalmaites are identical with the "mayeques." See Zurita (p. 224), "tlalmaites or mayeques, which signifies tillers of the soil of others . . . ." He distinguishes them plainly from the "tecalloc" which are the "tecpanponhque" or "tecpantlaca" formerly mentioned as attending to a class of official lands (p. 221, Zurita). Herrera (Dec. III, lib. IV, cap. XVII, p. 138). "These mayeques could not go from one tract to another, neither leave those which they cultivated, and they paid a rent to its masters according as they agreed upon ("en lo que se concertaban") in what they raised. They paid tribute to nobody else but the master of the land." This tends to show that there existed, not an established obligation, a serfdom, but a voluntary contract, that the "tlalmaites" were not serfs, but simply renters. Torquemada (Lib. XIV, cap. VII. p. 515). ". . . . those that were knights ("caballeros") and descendants of the families of the Kings, and Lords, had their particular lands and their rentals, where many of them held renters ("terrazgueros") which served them, tilled the crops and served them in their houses. These lands were called pillali or "land of nobles and knights." We prefer the etymology "piltontli" "niño ò niña, muchacho ó muchacha" (Molina, II, p. 88), or "piltzintli" niño ó niña" therefore lands of the children,—to the derivation from "pilli." The title of chief was "tecutli," and the word "pilli" substituted for it is certainly but in connection with the occupation of a particular place of office, and not a title itself. Bustamante ("Tezcoco, etc.," p. 226. "The sovereigns as well as the inferior Lords and other principals had their own patrimonial estates, and in them their mayeques or Tlalmayes, what these gave of rent were tributes of the Lord," Id. pp. 233 and 234). [566]

The "tlalmaites" appear to have been free from other tributes, and free from communal labor outside of the "pillali" (Bustamante, p. 233. Herrera, Dec. III, lib. IV, cap. XVII, p. 138). It is not very clear, however, whether this applies simply to the conquering tribe alone, or also to the tlalmaites of conquered tribes, as towards the tribute due by that tribe to their conquerors. The detailed relations between the two are yet somewhat obscure and confuse in some points. [446]

15:Bandelier E-4 (no date)1880 NU7 Aztec NU7

423 from a certain office, the incumbent of which changed at each election, the "tlalmilli" was assigned to a certain family, and its possession, therefore, connected with *customs* of *inheritance*.[101]

428 Being thus led to investigate the customs of Inheritance of the ancient Mexicans, we have to premise here, that the personal effects of a deceased can be but slightly considered. The rule was in general, that whatever a man held, descended to his offspring.[102] Among most of the northern Indians a larger cluster participated.[103] In conformity with the organization of Society based upon kin, when in the first stage of its development, the kindred group inherited, and the common ancestor of this kin being considered a female, it follows that if a man died, not his children, still less his wife, but his mother's descendants, that is: his brothers, sisters, in fact the entire consanguine relationship from which he derived on his mother's side, were his heirs.[104] Such may have been the case even among the Muysca of New-

[101] Ramirez de Fuenleal ("Letter," see "Recueil. etc.," p. 233). "De l' ordre de succession, etc., etc." Simancas MSS. (Id. p. 221). Herrera (Dec. III, lib. IV, cap. XVII, p. 138). Torquemada (Lib. XIV, cap. VII, p. 545). Clavigero (Lib. VII, cap. XIV). These authors mention only the "pillali," but Motolinia (Trat. II, cap. V, pp. 120 and 121), and Gomara (Vedia I, p. 434), apply it in general, and the latter is even very positive about the tributaries ("los pecheros.") Also Zurita (p. 50), although contradictory on p. 51).

[102] Motolinia (Tratado II, cap. V, p. 120), "but they left their houses and lands to their children . . ." Gomara (p. 434). "Es costumbre de pecheros que el hijo mayor herede al padre en toda la hacienda raiz y mueble, y que tenga y mantenga todos los hermanos y sobrinos, con tal que hagan ellos lo que el les mandare." Clavigero (Lib. VII, cap. XIII). "In Mexico and nearly the entire realm, the royal family excepted as already told, the sons succeeded to the father's rights,—and if there were no sons, then the brothers, and the brothers sons inherited." Bustamante ("Tezcoco, etc.," p. 219). In all these cases, Bustamante only speaks of chiefs; but the quotations from Motolinia and Gomara directly apply to the people in general.

[103] Mr. L. H. Morgan has investigated the customs of inheritance, not only among the northern Indians, but also among the pueblo Indians of New Mexico. He establishes the fact, that the "kinship" or "Gens," which we may justly consider as the unit of organization in American Aboriginal Society, participated in the property of the deceased. He proves it among the Iroquois ("Ancient Society," Part II, cap. II, pp. 73 and 76). Wyandottes, Id. cap. VII, p. 134. Missouri-tribes, p. 135. Winnebagoes, p. 137. Mandans, p. 138. Minnitarees, p. 139. Creeks, p. 161. Choctas, p. 162. Chickasas, p. 163. Ojibwas, p. 167; also Potowattomies and Crees, Miamis, p. 168. Shawnees, p. 169. Sauks, Foxes and Menominies, p. 170. Delawares, p. 172. Munsees and Mohegans, p. 173. Finally, the pueblo Indians of New Mexico are shown to have, if not the identical at least a similar mode of inheritance. It would be easy to secure further evidence, from South America also.

[104] "Ancient Society" (Part II, cap. II, p. 73. Part IV, cap. I, pp. 328, 330, 331, 336 and 337).

15:Bandelier E-4 (no date)1880 NU7 Aztec NU7

648 fief, still virtually created,—what his subsequently became in Spanish America,—a *domain* of the Spanish crown. Armed with it, and fully convinced of its validity,[117] the Spaniards regarded at once the soil of Mexico as their king's own, and therefore claimed the right as his agents, to dispose of it through distribution according to their home-laws and customs. But, instead of proclaiming this title at once after the landing, as was done on many other points of the American coast,[118] Cortés found it advisable to delay such a formal declaration until after he had, by his own inspection, satisfied himself of the proper ways and means to secure possession. He quickly found out the disconnected state of the country, although he attributed it to causes which were not really existing,[119] and it is well known how he improved it for his plans. He therefore treated secretly, as much as possible, with members of tribes subjected (or rather tributary) to the Mexicans and their confederates,[120] and in consideration of their espousing the Spanish cause, he promised them sundry favors.[121] The oldest document issued by Europeans on Mexican soil embodies such a negotiation with chiefs of the tribes of Axapusco and Tepeyahualco, both pueblos being situated within the valley of Mexico itself.[122] It promises

[117] Herrera (Dec. I, lib. II, cap. IV, p. 41). Oviedo (Lib. II, cap. VIII, pp. 31 and 32). Gomara (Vedia I, p. 108). Mendieta (Lib. I, cap. III, pp. 18-20), and many others. All these authorities can be summed up in Robertson's classical words: "The Pope, as vicar and representative of Jesus Christ, was supposed to have a right of dominion over all the kingdoms of the earth." ("History of America," 9th Edition, 1800. Vol. I, Book II, p. 150). It appears that already Grijalva had, in 1518, taken possession formally of the Mexican coast. (Oviedo, Lib. XVII, cap. XV, p. 525)

[118] Herrera (Dec. I, lib. VII, cap. XIV, pp. 197 and 198). Robertson (Vol. I, Book III, p. 271; also note XXIII, p. 378).

[119] Cortés supposed a Mexican state or empire and his measures were taken in consequence. ("Carta Segunda," Vedia I, p. 12). Gomara ("Conq. de Méjico," p. 313). Bernal-Diez del Castillo ("Hist. verd. de la conq. de N. España," Vedia II, pp. 32 and 33). Oviedo (Lib. XXXIII, cap. II, p. 261). Torquemada (Lib. IV, cap. XVI, pp. 386 and 387), etc. etc.

[120] Cortés ("Carta Segunda," Vedia I, pp. 13 and 15). Bernal-Diez (Vedia II, cap. XLI, p. 26). Oviedo (Lib. XXXIII, cap. II, p. 261). Andrés de Tapia ("Col. de Documentos," of Icazbalceta, Vol. II, pp. 561 and 562). Gomara ("Conq. de Méjico," Vedia, I, p. 330). But the main evidence is furnished by the document published by Icazbalceta in his second volume of the "Coleccion de Documentos para la Historia de Mexico," in the 2d volume, and entitled: "Real Ejecutoria de S. M. Sobre Tierras y Reservas de Pechos y Paga, pertenecientes á los Caciques de Axapusco, de la jurisdiccion de Otumba" (pp. 5, 6, 7, 8 and 9).

[121] "Real Ejecutoria" (Col. de doc. II, p. 7). Gomara (Vedia I, p. 320). Clavigero (Lib. VIII, cap. XI).

[122] The pueblos of Axapusco and Tepeyahualco are situated along the road leading from the city of Mexico to Tullanzinco, in the state of Mexico proper, northwest of San Juan de Teotihuacan. As the Document to which we have already referred im-

15:Bandelier E-4 (no date)1880 NU7 Aztec NU7

to those chiefs lands of their own. The grantees had no conception of the true import of what they accepted, neither did Cortés conceive the nature of *their* ideas. It was the object of the Indians

plies, they were under Spanish rule included in the jurisdiction of Otumba. This document itself requires particular attention. It has been published by Sr. Icazbalceta in the second volume of his documentary collections, and its authenticity has been carefully examined—and, we think, successfully proven—by Sr. José F. Ramirez. Its history is not devoid of interest, and we record it here, partly from the document itself, and partly from the introduction and notes by the late Sr. Ramirez.

On the 9th day of March, 1617, there appeared before the viceroy of New Spain (Marques of Guadalcazar), Leonardo de Salazar "in the name of the governor, alcalde and fiscals" of the pueblo of San Esteban Axapusco and Santiago Tepeyahualco, "of the jurisdiction of Otumba," praying for a confirmation in writing by the viceroy, of a certain grant made by Cortés, and approved by the King and his royal council under seal,—to the aforesaid pueblos. In order to obtain said confirmation it was alleged: that the grant, written on "nine leaves" was so torn and damaged, that it would no longer bear handling,—and that through its loss the inhabitants of said settlements might come to grief. The petition was immediately granted and it was ordained, on the 19 of March 1617, that a copy of the original grant should be executed, and that in such places where the text was torn or obliterated through damage to the originals, common belief or tradition should prevail as far as it related to the contents of the document ("obre la fé que hubiere lugar en derecho"). The desired copy and certificates were accordingly issued on the 21st day of March, 1617.

This copy embodies the mutilated text of a very singular official paper. It appears from it that on the 30th day of May 1519, Cortés executed, in favor of two Indian chiefs of the two aforesaid pueblos, and at their request, a certificate (signed by himself at San Juan de Ulúa on that day and countersigned: Pedro Hernandez), stating that the said chiefs had joined the messengers sent from Mexico to greet and espy Cortés upon his arrival at the coast,—with the intention of approaching him secretly and offering him their assistance in any designs he might have against the Mexicans, whom they said held them severely to tribute. This they achieved, and took allegiance to the crown of Spain. In return Cortés promised to them that "after our journey should be accomplished . . . . . to them should in the first place be made the greatest honor possible in return for so much noble subtility and good-will." He also promised "to make them grandees and Lords of lands where they now have their pueblos." The facts thus alleged were contained in the original document, written consequently about 30 days after the landing of Cortés on the coast of Vera Cruz. But this act itself was included, as a copy, in a further grant, dated 16 December, 1526, in which Cortés acknowledges the services rendered by the two chiefs during the conquest of Mexico, and that after that pueblo had been captured, the said chiefs returned to their tribes "well paid with the booty," relying upon the fulfilment of his original promises. It further states that: six years having elapsed since, and to most of the chiefs who had assisted the Spanish cause, lands had been given, he remembered the chiefs of Axapusco and Tepeyahualco, "and by these presents in the royal name of His majesty gave them four tracts ("cuatro sitios de estancias") . . . . . in the territory of their said pueblos." These lands were freed from all taxes and impositions, and the chiefs and their heirs were invested forever with the lordship and the office of governors ("gobernadores") of the pueblo to which they belonged. This grant of Cortés was confirmed by the Emperor Charles V, and the royal council of the Indies, 2d November, 1537, and on the 9 and 10 February, 1540, the said chieftains were duly installed in their new hereditary positions, and their lands measured off to them.

Doubts were raised as to the genuineness of the document, but these are set aside completely by the fact that, not more than 96 years after its first execution, the Spanish authorities have legally acknowledged it. Some objections relating to imperfections in the text, apparent anachronisms, have been eliminated through the judicious

15:Bandelier E-4 (no date)1880 NU7 Aztec NU7

648 178 Aborigines themselves the Spaniards naturally profited for further encroachments. Many "encomenderos" used the authority of the chiefs to turn their Indian serfs into actual slaves, others in turn improved the new perspective opened to the natives towards the acquisition of private lands, for the purpose of undermining the influence and authority of the chieftains.[140] Frequently, also, the ignorance in which the Indians were, as to the

Tepeaca to Pedro Arnaldez Chirino,— Chilchota to Juan de Sámano, etc., etc. Each of these, especially the first one, comprised several villages, nay a whole tribe.

Compare the letter of the Archbishop Montufar, 30 Nov., 1554 ("Crueautés horribles, etc." Appendix, 255-260). Zurita (pp. 63 and 64). The complaints are principally, against such as held offices under the conquerors, and such to whom lands were given out of the calpulalli. The petition of Montufar is a terrible accusation against the Indian chiefs. Gomara, however, qualifies it as one of the good effects of the conquest that the Indians since that time "hold lands" (Vedia I). Motolinia (Trat. I, cap. I, p. 17) is very severe on the collectors of rent for the whites. But these collectors must have been mostly Indians,— *chiefs*, as he himself acknowledges in his Cholula-letters.

[140] Motolinia (Trat. I, cap. I, p. 17). Montufar (pp. 255-260) Zurita (pp. 63 and 64). Cuevas, Second Letter, 1 March, 1565 (Col. de Doc. II, pp. 240 and 241). Zurita (p. 63) is of special importance, exposing the intrigues of the Spanish conquerors among the Indian communities, inciting the natives to litigations against their chiefs. Mendieta, in his remarkable letter from Tolnca, 1 Jan'y, 1572, to Fray Francisco de Bustamante, commissary general, at Mexico, devotes his principal attention to the pernicious influence of the Spanish interpreters and lawyers, inciting the Indians to litigation before the "Audiencia" and not before the viceroy. He says for inst. (p. 532), "that without comparison their condition and behavior was better at their time of gentility than now. For at the time they were heathens they did not know of lawyers ("letrado" properly men of letters), scribes, nor attorneys, neither of litigations, nor to spend in such (squabbles) their properties and ruin their souls. To-day, since the opportunity is afforded to them, and they being naturally quarrelsome, disposed to tackle and injure each other, they are so fond of it as to have them continually on hand, without cause nor reason, and (such are) always the worst and most abject of the tribe. Therefore not a single community is found in New Spain which is not disturbed, and does not spend nearly as much in litigation as they pay of tribute to H. M., or to the encomendero every year. And since they are of little understanding, and not versed in law, I hold all what the interpreters and attorneys gain by it as so much of a robbery as if they would take it from the houses at night. Such do not even deny their base actions, but confess openly that they do it, without any other excuse than that H. M. gives them permission." On p. 536, he says: "certain particular Indians in all the settlements do great mischief, knowing that they have recourse to the court, and among the pretenses to cover their malice they use two most commonly, which are: demand account of the communal property, pretending that the principals spend it, and the other, to have the conduct of their officers investigated under color that these abuse of their position (power)." Zurita (p. 63), speaking of the intrigues against the chiefs says: "the ordinary tribute and prestations failing, they fall into the most abject misery, become dejected, dare not speak, and do not know where to apply for protection. For all this the rebels do not cause any loss to the encomendero as to his tribute .... In this manner they ruin the chiefs in a very short time, for all their property consists in the work of their vassals, as soon as that ceases, if it was but for a single day, they lack every requisite for life." (This quotation is in itself, we think, the most ample confirmation of what we have advanced upon the subject of aboriginal tenure of the soil, and fully disproves what has been assumed in regard to the chiefs holding and owning lands of their own). See also Memorial of Bartolomé de Las Casas (Col. de Doc. II, pp. 220 and 230).

15:Bandelier E-4 (no date)1880 NU7 Aztec NU7

618 marked improvement, at least in the personal condition of the Indians. They were, hereafter, at least to some extent, protected from the bodily slavery in which the former acts had plunged them. In regard to the tenure of lands, however, the laws wrought no change. Further direct spoliations became more difficult, but the new principle of private ownership had been firmly implanted, not merely *around* but *among* the natives themselves, and the obliteration of the ancient usages, by the extension of this principle, could not be stayed.

618 423 Of the aboriginal mode of tenure of lands and of their distribution, but one vestige remained—the last monument so to say, and the one which embodies, happily, all its principal features. These are the lands of *kinship*, held in common by the consanguine group or calpulli, and called as we have seen, "calpulalli," by the Mexicans.

Although their order had been very much disturbed since in many cases the official tracts, "tecpan-tlalli" and "tlatoca- tlalli," as well as those apportioned to the chiefs as members of the kin, "tlalmilli," were appropriated by the conquerors,—the bulk of the "calpulalli" could not, for a long time, be disintegrated for private uses, notwithstanding the still more nefarious influence exercised by the donation of lands to individuals, with the faculty of barter or sale, in the very heart of the organization itself. Even up to the present time, these communal tracts are still found in Mexico, occupied and tilled by the aborigines after their original customs.[151]

171 [151] Mr. James Pascoe, an English gentleman, resident of Toluca, has in a letter reported upon by the French "Journal des Missions Evangéliques" (1874), given a detailed description of the condition of the Indians in his vicinity. His statements about their communal system of tenure, the eligibility of their chiefs, etc., etc. ("gobernadores") are very positive and plain.

Mr. Stephens, in "Travels in Yucatan" (Vol. II, cap. I, pp. 14 and 15), described the mode of life of the settlement ("rancho") of Sobawill near Nohcacab, which settlement contained about "one hundred labradores, or working men, their lands are held and worked in common, and the products are shared by all. Their food is prepared at one hut, and every family sends for its portion, etc., etc."

Brantz-Mayer: ("Mexico as it was and as it is," 3d Edition, 1827). While at the hacienda of Temisco near Cuernavaca: "he pointed out to us the site of an Indian village, at the distance of three leagues, the inhabitants of which are almost in their native state. He told us, that they do not permit the visits of white people; and that, numbering more than three thousand, they come out in delegations to work at the haciendas, being governed at home by their own magistrates, administering their own lands, and employing a Catholic priest to shrive them of their sins; once a year. The money they receive in payment of wages, at the haciendas, is taken home and buried; and as they produce the cotton and skin for their dresses, and the corn and beans for their food, they purchase nothing at the stores" (p. 173). Hon. E. G. Squier, in his ex-

15:Bandelier E-4 (no date)1880 NU7 Aztec NU7

"The good order reigning in the calpullis is a strong reason to 648
protect them in law, and to prevent them from becoming intermingled, as they are already nearly everywhere; for once broken up, the harmony which they originally exhibited can never be reëstablished again. The ignorance about these institutions, and the little regard paid to them, are the cause that many Indians were given lands out of their calpullis, which they (originally) had received only to cultivate, and (this) on their simple assertion that they and their ancestors had held and tilled them. In doing this, they but follow the advice of the Spaniards (mestizoes) and mulattoes, who involve them in litigations, and who live from these squabbles. . . . . In vain the chiefs deny such assertions, claiming that the lands belong to the calpulli; they are not heeded, the rightful owners are despoiled, and those to whom they are adjudged do not profit by it, since they sell them, or alienate them (otherwise) to the detriment of the calpulli."

Out of the scanty remains thus left of certain features of abo- 423
riginal life in ancient Mexico, as well as out of the conflicting statements about that country's early history, we have now attempted to reconstruct the conceptions of the Mexican aborigines about tenure of lands, as well as their manner of distribution thereof. Our inquiries seem to justify the following conclusions:

1. The notion of abstract ownership of the soil, either by a nation or state, or by the head of its government, or by individuals, was unknown to the ancient Mexicans.

2. Definite possessory right was vested in the kinships com-

"Coleccion de Documentos para la Historia de México."— Alonso de Zurita lived in America from 1540 till 1570; or about nineteen years. Of these he spent two at St. Domingo, three years in N. Granada, Sa. Marta, Cartagena, and the Cabo de la Vela, three years in Guatemala, and about eleven in Mexico. His "Report" consists of a series of answers to queries put by the King, and sent from Valladolid, Dec., 1553. If we could obtain all the answers given to these questions from all parts of Spanish America, and all as elaborate and truthful as those of Zurita, Palacio and Ondegardo, our knowledge of aboriginal history and ethnology of Spanish America would be much advanced.

15:Bandelier E-4 (no date)1880 NU7 Aztec NU7

423 posing the tribe; but the idea of sale, barter, or conveyance or alienation of such by the kin had not been conceived.

3. Individuals, whatever might be their position or office, without any exception, held but the right to use certain defined lots for their sustenance, which right, although hereditary in the male line, was nevertheless limited to the conditions of residence within the area held by the kin, and of cultivation either by or in the name of him to whom the said lots were assigned.

4. No possessory rights to land were attached to any office or chieftaincy. As members of a kin, each chief had the use of a certain lot, which he could rent or farm to others, for his benefit.

5. For the requirements of tribal business, and of the governmental features of the kinships (public hospitality included), certain tracts were set apart as official lands, out of which the official households were supplied and sustained; but these lands and their products were totally independent from the persons or families of the chiefs themselves.

648 6. Conquest of any tribe by the Mexicans was not followed by
651 an annexation of that tribe's territory, nor by an apportionment of its soil among the conquerors. Tribute was exacted, and, for the purpose of raising that tribute (in part), special tracts were set off; the crops of which were gathered for the storehouses of Mexico.

631 7. Consequently, as our previous investigation (of the warlike
642 institutions and customs of the ancient Mexicans) have disproved the generally received notion of a military despotism prevailing among them,—so the results of this review of Tenure and distribution of lands tend to establish: "that the principle and institution of feudality did not exist in aboriginal Mexico."